

REMARKS / DISCUSSION OF ISSUES

Claims 1-5 are pending in the application. Claims 6-9 are cancelled without prejudice or disclaimer of their subject matter.

Objection to the Specification

Applicants thank the Examiner for providing information about recommended section headings. However, Applicants respectfully decline to add the headings. Section headings are not statutorily required for filing a non-provisional patent application under 35 USC § 111(a), but per 37 CFR § 1.51(d) are only guidelines that are suggested for applicant's use. (See "Miscellaneous Changes in Patent Practice, Response to comments 17 and 18" (Official Gazette, August 13, 1996) [Docket No: 950620162-6014-02] RIN 0651-AA75 ("Section 1.77 is permissive rather than mandatory. ... [T]he Office will not require any application to comply with the format set forth in 1.77")). (See also MPEP § 608.01(a)).

The amendments to the Abstract are believed to overcome the objections thereto.

Objections to the Claims

The objections to claims 2-4 have been considered and appropriately addressed. The amendments are believed to overcome these objections. Moreover, the objections to claims 5-7 are moot in view of the present amendment.

Rejections under 35 U.S.C. § 102

Claims 1-3 are rejected under 35 U.S.C. § 102(b) as being unpatentable over *Murthy, et al.* (US Patent 6,101,238). For at least the reasons set forth herein, claims 1-3 are patentable over the applied art.

At the outset Applicants rely at least on the following standards with regard to proper rejections under 35 U.S.C. § 102. Notably, a proper rejection of a claim under 35 U.S.C. § 102 requires that a single prior art reference disclose each element of the claim.

See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *See, e.g., In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990). Alternatively, anticipation requires that each and every element of the claimed invention be embodied in a single prior art device or practice. *See, e.g., Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

i. Claim 1

As amended, claim 1 recites:

A method for combining ultrasonic images of the same object including the steps of:

- seeking contours representing an interface on the ultrasonic images to be combined, said search step being intended to define interest areas close to said representative contours,*
- analyzing interest areas, said analysis step being intended to allocate weights to the points in said interest areas and to the points corresponding to said interest areas on the various ultrasonic images,*
- constructing a combination image, a point on the combination image corresponding to a point on at least one interest area being obtained from a weighting of the corresponding points on the ultrasonic images to be combined according to the weights allocated in said analysis step.*

At the outset, Applicants note that the applied art relates to a system for the generation and use of X-ray images. There is no disclosure or suggestion of combining ultrasonic images as specifically claimed. For this reason alone, there is at least one

feature of claim 1 not disclosed in the applied art rendering the claim patentable over the applied art.

Moreover, and while supererogatory to Applicants position that claims 1-3 are patentable over the applied art, Applicants submit that the applied art fails to disclose *seeking contours representing an interface on the ultrasonic images to be combined, said search step being intended to define interest areas close to said representative contours*. A review of column 4, line 1-column 5, line 59 and column 7, lines 8-18 of *Murthy, et al.* as relied upon in the Office Action for the alleged disclosure of this feature does not reveal contours representing an interface on any image, let alone on an ultrasonic image. Therefore, the applied art fails to disclose at least one other feature of claim 1 and cannot serve to establish a *prima facie* case of anticipation.

For at least the reasons set forth above, Applicants respectfully submit that claim 1 is patentable over the applied art. As such, claims 2-4, which depend from claim 1 are patentable for at least the same reasons and for their additionally recited subject matter.

Rejections under 35 U.S.C. § 103

The rejections under this section of the Code have been considered. Applicants do not concede their propriety. However, because claim 4 depends from claim 1 and because claims 5-9 are cancelled, the rejections are moot.

Conclusion

In view the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies to charge payment or credit any overpayment to Deposit Account Number 50-0238 for any additional fees, including, but not limited to, the fees under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:
Phillips Electronics North America Corp.

s/William S. Francos/

by: William S. Francos (Reg. No. 38,456)

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